

E-filed 2/1/2017

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NGOC LAM CHE,
Plaintiff,
v.
LONDINA, LLC, et al.,
Defendants.

Case No.16-cv-04027-HRL

**ORDER OF DISMISSAL FOR FAILURE
TO PROSECUTE**

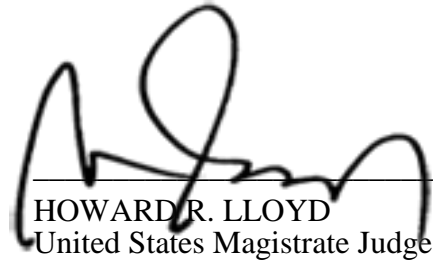
Re: Dkt. Nos. 20, 25

Plaintiff Ngoc Lam Che filed this case on July 17, 2016, and the court issued a scheduling order on July 18, 2016. Dkt. Nos. 1, 10. The deadline for the plaintiff to file a Notice of Need for Mediation was December 12, 2016. Dkt. No. 10. After the plaintiff failed to file such a notice, the court issued an order to show cause why the plaintiff's claims should not be dismissed for failure to prosecute on December 28, 2016. Dkt. No. 20. The show cause order set a deadline for a response of January 17, 2017, and a hearing date of January 24, 2017, and stated, "[i]f plaintiff fails to appear, the case shall be dismissed for failure to prosecute." *Id.* Plaintiff failed to file a response to the order to show cause and failed to appear at the show cause hearing. Dkt. No. 25.

Having considered the five factors set forth in *Malone v. United States Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987), the court has determined that notwithstanding the public policy favoring the disposition of actions on their merits, the court's need to manage its docket and the public interest in the expeditious resolution of the litigation require dismissal of this action. In view of plaintiff's lack of response to this court's prior order(s), the court finds there is no appropriate less drastic sanction. Accordingly, this action is dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for plaintiff's failure to prosecute.

IT IS SO ORDERED.

Dated: 2/1/2017



HOWARD R. LLOYD
United States Magistrate Judge

United States District Court
Northern District of California